

<b>BOARD OF APPEALS CASE NO. 4828</b>	*	<b>BEFORE THE</b>
<b>APPLICANT: Amyclae USA Limited</b>	*	<b>ZONING HEARING EXAMINER</b>
<b>REQUEST: Variance to locate 2 billboard signs within the required setbacks;</b>	*	<b>OF HARFORD COUNTY</b>
<b>Amyclae Business Center, Lots 2 and 3,</b>	*	
<b>Bel Air</b>	*	<b>Hearing Advertised</b>
	*	<b>Aegis: 8/12/98 &amp; 8/19/98</b>
<b>HEARING DATE: October 13, 1998</b>	*	<b>Record: 8/14/98 &amp; 8/21/98</b>

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Amyclae USA Limited, is requesting a variance pursuant to Section 219-17 of the Harford County Sign Code from the provisions of Section 219-15(B) and (C) to erect two signs which by definition are billboards on property zoned B2.

The subject property is designated as Lots 2 and 3 in Parcel 654 on Tax Map 41. Lot 2 is at the intersection of MD Route 543 and Agora Drive and Lot 3 is located at MD Route 22 and Agora Drive.

Mr. Mark Meuller appeared and qualified as an expert in the field of commercial real estate and testified that Lots 2 and 3, are in the Amyclae Business Center and that he was in charge of developing and leasing the lots in the business center. Mr. Meuller said the business center is comprised of six lots and that the Applicant is requesting variances to erect two free-standing directional signs which will advertise uses conducted on all six of the lots in the business center.

Mr. Meuller testified that, in his opinion, visibility from MD Routes 22 and 543 is necessary for the success of uses conducted in the business center. He pointed out that Lots 5 and 6 have no frontage on MD Routes 22 or 543. He went on to testify that there is no commercially reasonable means to provide visibility to uses conducted on Lots 5 and 6 except through the requested signs. He explained that having the signs advertise all six lots would be the most efficient and effective way of advertising all uses conducted in the business center.

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Mr. Meuller also testified that denial of the requested variance would cause practical difficulty to the Applicant because they would be unable to construct the signs, and he indicated that granting the requested variances would not cause any adverse impact of any kind. He said that the area where the subject property is located is zoned for and developed with commercial uses and that adjoining properties contain similar signs. Mr. Meuller said that the Applicant would comply with the recommended conditions contained in the Staff Report.

Mr. Rowan Glidden appeared and qualified as an expert in land planning and landscape architecture. Mr. Glidden testified that individual free-standing signs identical to the signs proposed are allowed on the lot under the Sign Code. However, because the signs will advertise uses conducted on other lots in the business center, the signs constitute billboards under the definition contained in the Sign Code.

Mr. Glidden pointed out that due to the widened Route 22, the elevation of Lots 3 and 4 is much higher than the roadbed of MD Route 22. As a result, he said the sign on Lot 3 must exceed the maximum 40 foot height requirement. He went on to say that the elevation of Lots 1 and 2 is somewhat lower than the roadbed of MD Route 543. He noted that other properties in the areas have commercial signs similar to the ones proposed by the Applicant.

Mr. Glidden explained that the purposes of the Sign Code will be satisfied if the requested variances are granted, as the signs are attractive and appropriately designed. He said that no adverse impact of any kind would result from granting the variances, given that the signs were virtually identical to permitted free-standing signs. He testified that moving the signs back from the road right-of-way or reducing them in size would affect visibility and would not satisfy the requirements of the applicant. He stated that granting the variance would benefit the public by enabling motorists to see the uses conducted on the lots, thereby improving traffic safety.

No protestants appeared in opposition to the Applicant's request, and the Staff Report of the Department of Planning and Zoning recommended conditional approval.

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### **CONCLUSION:**

The Applicant is requesting variances to allow construction of signs defined by the Sign Code as billboards on Lots 2 and 3 in the Amyclae Business Center.

Section 219-15, Billboards, provides:

Billboards shall be permitted in the General Business, B3, Commercial Industrial (CI) and General Industrial (GI) Districts only.

- B. Location. Billboards shall not be permitted to be erected within three hundred (300) feet of any public square or the entrance to any public park, public, private or parochial school, library, church or similar institution. All such signs shall be set back from the front property line the distance required for a principal building in the zoning district in which located. No billboard shall be permitted to be erected within one hundred (100) feet of a road intersection unless the base of the sign is not less than ten (10) feet above ground level or road surface, whichever is higher. No billboard shall be erected within six hundred sixty (660) feet of any highway which is part of the interstate highway system.
- C. Height. A billboard shall be no more than forty (40) feet in height from road grade. A variance in maximum height may be granted by the Board due to the uniqueness of the property.

Section 219-17 allows variances to the provisions of the Sign Code and provides:

“The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.

If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”

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The evidence and testimony indicate that the sign proposed to be located on Lot 3 is a double-faced sign with a message area of 198.8 square feet on each side, the top of the sign is 44 feet in height above road grade, is set back at least 22 feet from the edge of the right-of-way of MD Route 22, is located more than 100 feet from a road intersection and is located more than 300 feet from any public square or entrance to any public park, private or parochial school, library, church or similar institution. The base of the sign will be 2 feet 8 inches above ground level.

The sign proposed to be located on the Lot 2 is a double-faced sign with a message area of 198.8 square feet on each side, is 31 feet above road grade, is set back at least 13 feet from the edge of the right-of-way of MD Route 543, is located more than 100 feet from a road intersection. The sign will be located less than 300 feet from the entrance to the Enchanted Child Care Day care Center located on Agora Drive. The evidence indicates the sign will be 242 feet from the entrance to the Day care center. The base of the sign will be 2 feet 8 inches above ground level.

The uncontradicted testimony from the Applicant's expert witnesses was that the subject property has exceptional circumstances unique to it in that it is part of the Amyclae Business Center, and that the subject property has topographic conditions which cause practical difficulty to the Applicant. The evidence indicates that there is a grade difference between MD Routes 22 and 543, unlike other properties which have a grade direct access. Lots 5 and 6 are set back from MD Route 22 and MD Route 543 such a distance that a freestanding sign located on those lots would not be visible to motorists. No other commercially reasonable means to advertise uses on Lots 5 and 6 to those motorists exist except to locate the signs as proposed on Lots 2 and 3. The most effective locations for directory signs for all six lots in the business center are as proposed. Apart from the height variance for the sign on Lot 3, which is caused by the grade difference noted herein, it is only the addition of name panels for uses located elsewhere in the business center which transforms the sign from a permitted, freestanding sign to a billboard under the Code definition that makes the variances necessary.

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Unlike true billboards, the signs will only advertise uses conducted on Lots 1, 4, 5 and 6, which are adjoining properties within the business center. Because the freestanding signs are otherwise permitted, no adverse impact would result.

It is the finding of the Haring Examiner that by reason of topographic conditions and other exceptional circumstances unique to the lots, practical difficulty and unnecessary hardship would result if the requested variances were denied. It is, further, the finding of the Hearing Examiner that the variances can be granted without impairment of the purpose and provisions of this chapter.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance be approved subject to the following conditions:

1. The Applicant shall obtain all necessary permits and inspections for the signs.
2. The Director of Planning and Zoning shall approve the architectural rendering submitted with the building permits.
3. The signs shall only advertise uses contained on the six Amyclae Business Center lots.

Date        NOVEMBER 2, 1998

L. A. Hinderhofer  
Zoning Hearing Examiner